



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XB030

Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Navy's

Training Activities at the Gulf of Mexico Range Complex

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has issued a two-year Letter of Authorization (LOA) to the U.S. Navy (Navy) to take marine mammals by harassment incidental to its training activities at the Gulf of Mexico (GOMEX) Range Complex.

DATES: Effective from March 18, 2012, through March 17, 2014.

ADDRESSES: Copies of the Navy's November 2, 2011, LOA application, and the LOA are available by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, by telephoning the contact listed here (SEE FOR FURTHER INFORMATION CONTACT), or online at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 et seq.) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a military readiness activity if certain findings are made and regulations are issued.

Authorization may be granted for periods of 5 years or less if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to the U.S. Navy's training activities at the GOMEX Range Complex were published on February 17, 2011 (76 FR 9250), and remain in effect through February 17, 2016. They are codified at 50 CFR part 218 subpart D. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the Navy's training activities. For detailed information on these actions, please refer to the February 17, 2011, Federal Register notice and 50 CFR part

218 subpart D. On February 1, 2012, NMFS published a final rule (77 FR 4917) that allows for the issuance of multi-year LOAs, as long as the regulations governing such LOAs are valid.

Summary of LOA Request

NMFS received an application from the U.S. Navy for an LOA covering the Navy's training activities at the GOMEX Range Complex in the Gulf of Mexico under the regulations issued on February 17, 2011 (76 FR 9250). The application requested authorization, for a period of two years, to take, by harassment, marine mammals incidental to proposed training activities that involve underwater explosive detonation.

Summary of Activity under the 2011 LOA

Between March 2011 and January 2012, there were no training events conducted in the GOMEX Range Complex.

Planned Activities for 2012 through 2014

In 2012 through March 2014, the Navy expects to conduct the same type and amount of training activities identified in the final rules and 2011 LOA. No modification is proposed by the Navy for its planned 2012 - 2014 activities under the 2011 rule.

Estimated Take for 2012 - 2014

The estimated takes for the Navy's proposed training activities are the same as those authorized in 2011. No change has been made in the estimated takes from the 2011 LOA.

Summary of Monitoring, Reporting, and other requirements under the 2009 LOA

In the 2011 LOA and regulations, the Navy is required to submit annual Range Complex monitoring and exercise reports by March 1, covering through January 1 of the same year. However, NMFS realized that the LOA for the GOMEX Range Complex training activities expires on March 17. To allow adequate time to review these reports for the issuance of future

LOA renewal and rulemakings, the due date of these reports is changed to November 1, covering the period through August 1 of the previous year.

Annual Range Complex Exercise Report

The Navy submitted their 2011 annual Range Complex training activities reports covering the period from the dates when Range Complex LOAs became effective through January 2012, and the reports are posted on NMFS website:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. In the case of GOMEX Range Complex, the Navy reported that there were no training events during the reporting period between March 2011 and January 2012.

Monitoring and Annual Monitoring Reports

The Navy submitted the Range Complex marine species monitoring reports within the required timeframes and they are posted on NMFS website:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Since there were no training events conducted between March 2011 and January 2012 at the GOMEX Range Complex, no monitoring opportunities were available during that period.

Adaptive Management

In general, adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) if monitoring efforts should be modified if new information suggests that such modifications are appropriate. All of the 5-year rules and LOAs issued to the Navy include an adaptive management component, which includes an annual meeting between NMFS and the Navy. NMFS and the Navy conducted an adaptive management meeting in October, 2011, which representatives from the Marine Mammal Commission participated in, wherein we reviewed the Navy monitoring

results through August 1, 2011, discussed other Navy research and development efforts, and discussed other new information that could potentially inform decisions regarding Navy mitigation and monitoring. No changes were proposed for the 2012 monitoring plan for the Navy's GOMEX Range Complex training activities.

2011 Monitoring Meeting

The regulations that established the framework for authorizing the taking of marine mammals incidental to Navy RDT&E activities required the Navy, with guidance and support from NMFS, to convene a Monitoring Workshop in 2011 (50 CFR 218.184(i)). The Marine Mammal Monitoring Workshop, which included scientists, representatives from non-governmental organization, and Marine Mammal Commission staff, took place in June 2011. Pursuant to the regulations, this workshop presented a consolidated overview of monitoring activities conducted in 2010, as well as the outcomes of selected monitoring-related research. In 2010, the Navy convened a Scientific Advisory Group (SAG), comprised of experts in the fields of marine mammals and underwater acoustics, to review the Navy's current monitoring plans and make recommendations. The results of the SAG's review were also presented at the meeting. Participants engaged in open discussion of the lessons learned, and discussed how to improve the Navy's monitoring plan moving forward. If changes to monitoring approaches are identified during future workshops that can be implemented during the annual LOA renewal process and subsequent 5-year regulations, the Navy and NMFS will modify the Navy-wide monitoring plan and propose appropriate changes to the monitoring measures in specific LOAs for the different Range Complexes and study areas. For Range Complexes or study areas with substantive monitoring modifications, NMFS will subsequently publish proposed LOAs, with the modifications, in the Federal Register and solicit public input. After addressing public

comments and making changes as appropriate, NMFS will issue new training area LOAs that reflect the new Navy-wide monitoring plan.

Authorization

Since there are no changes in the Navy's proposed training activities at the GOMEX Range Complex, NMFS' determination that the Navy's GOMEX Range Complex training activities will have no more than a negligible impact on the affected species or stocks of marine mammals in the action area, as described in the original regulations, is still valid. There is no subsistence use of marine mammals that could potentially be impacted by the Navy's training activities at GOMEX Range Complex. Further, the level of taking authorized in 2012 through March 2014 for the Navy's GOMEX Range Complex training activities is consistent with our previous findings made for the total taking allowed under the GOMEX Range Complex regulations. Accordingly, NMFS has issued a two-year LOA for Navy's training activities conducted at the GOMEX Range Complex from March 18, 2012, through March 17, 2014.

Dated: March 4, 2012.

Helen M. Golde, Deputy Director
Office of Protected Resources
National Marine Fisheries Service

[FR Doc. 2012-7041 Filed 03/22/2012 at 8:45 am; Publication Date: 03/23/2012]